

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERIKA GUTIERREZ,

Plaintiff,

vs.

LIFE INSURANCE COMPANY OF NORTH  
AMERICA,

Defendant.

**8:22-CV-79**

**ORDER ON MOTION TO DISMISS**

This matter is before the Court on Plaintiff's Motion requesting that the Court enter an order dismissing this case with prejudice. [Filing 22](#). Plaintiff does not specify under which Federal Rule of Civil Procedure she moves. Under [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)](#), a plaintiff may voluntarily dismiss a case by filing a notice of dismissal before the defendant serves an answer or a summary judgment motion, or via a stipulation signed by all parties who have appeared. *See Fed. R. Civ. P. 41(a)(1)(A)(i)–(ii).* However, Defendant has already filed an answer and Plaintiff's motion is only signed by her counsel. Therefore, Rule 41(a)(1)(A) is inapplicable.

Instead, the Court construes Plaintiff's Motion as a request for dismissal under [Federal Rule of Civil Procedure 41\(a\)\(2\)](#), which permits a plaintiff to request dismissal pursuant to a court order "on terms that the court considers proper." [Fed. R. Civ. P. 41\(a\)\(2\)](#). Plaintiff represents in her Motion that the case has settled and requests dismissal with prejudice. The Court finds these terms to be proper and therefore grants Plaintiff's Motion. Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion to Dismiss, [Filing 22](#), is granted; and
2. This case is dismissed with prejudice, each part to bear their own fees and costs.

Dated this 23rd day of June, 2022.

BY THE COURT:



Brian C. Buescher  
United States District Judge